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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/652,478	08/31/2000	Labeeb K. Ismail	155785-0005	2895
7590 08/11/2004 Kenneth L. Sherman, Esq. Myers Dawes Andras & Sherman, LLP 19900 MacArthur Blvd., 11th Floor Irvine, CA 92612			EXAMINER BUI, KIEU OANH T	
			ART UNIT 2611	PAPER NUMBER 8

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/652,478

Applicant(s)

ISMAIL ET AL.

Examiner

KIEU-OANH T BUI

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-116 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-116 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4&6</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.*

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-18, 20-69, and 71-116 are rejected under 35 U.S.C. 102(e) as being anticipated by Hawkins et al. (U.S. Patent No. 6,005,561/ or "Hawkins" hereinafter).

Regarding claim 1, Hawkins discloses "a method to deliver customized linear video programming to each of a plurality of individual viewers" (Fig. 1& 2, and col. 2/line 24 to col. 4/line 52 for an overview of interactive and customized linear video programming delivered to viewers/customers), comprising: "processing information indicative of preferences of each of the plurality of viewers to develop viewer characteristics information for each of the viewers; and configuring a set of video programming segments for each viewer, at least one of the video programming segments selected from a plurality of available video programming segments, to create an apparently linear program for linear delivery to the viewer in accordance with the viewer characteristics information", i.e., a short video or clips of video can be selected or ordered from a plurality of available programming segments and delivered to the users/viewers based on

their characteristics indicated by their preferences (col. 10/lines 46-67 for viewer preferences detection; col. 11/lines 40-67 & col. 15/lines 20-26 for clips of movies).

As for claim 2, Hawkins discloses “wherein configuring a set of video programming segments further comprises: selecting at least one broadcast video programming segment for linear delivery to the viewer concurrent with the broadcast of the video segment to create the apparently linear program”, i.e., the selection of at least one broadcast video programming segment is concurrent with the broadcast of the video segment because the delivery is per “on demand” as well as real-time interactive viewing (col. 7/lines 18-27 & col. 9/line 61 to col. 10/line 59).

As for claim 3, Hawkins further discloses “wherein configuring a set of video programming segments further comprises: selecting at least one video programming segment stored on a storage medium for linear delivery to the viewer to create the apparently linear program”, i.e., video or data information from information servers (Fig. 2) can be delivered to the user’s memory at the user’s location (Fig. 7, and col. 13/lines 30-41).

As for claims 4-6, Hawkins discloses “wherein processing information indicative of preferences of each of the plurality of viewers comprises: processing information indicative of television program viewing preferences of each of the plurality of viewers”; “wherein processing information indicative of television program viewing preferences of each of the plurality of viewers comprises: processing information indicative of television programs watched by each of the plurality of viewers”; and “wherein processing information indicative of television program viewing preferences of each of the plurality of viewers comprises: processing information indicative of television programs recorded by each of the plurality of viewers” (Figs. 4 & 6

shows television interfaces that the user can set his/her own preferences for TV programs, and col. 10/lines 46-67 for recording viewer preferences and viewing habits).

As for claim 7, in further view of claim 4, Hawkins suggests “wherein processing information indicative of television program viewing preferences of each of the plurality of viewers comprises: processing information indicative of television programs not watched by each of the plurality of viewers”, i.e., at times as the viewer does not watch or away from home, the system also keeps track of those times (col. 17/lines 10-21).

As for claims 8 and 9, Hawkins teaches “wherein processing information indicative of television program viewing preferences of each of the plurality of viewers comprises: processing information indicative of television program guide information requested by each of the plurality of viewers” and “wherein processing information indicative of television program viewing preferences of each of the plurality of viewers comprises: processing information indicative of television program guide information not requested by each of the plurality of viewers”, i.e., the system provide program requested by each individual viewer and/or group of viewers not by each viewer (col. 16/line 38-60).

As for claims 10-14, Hawkins discloses “wherein processing information indicative of television program viewing preferences of each of the plurality of viewers comprises: processing electronic program guide information”; “wherein processing information indicative of preferences of each of the plurality of viewers comprises: processing information indicative of preferences of each of the plurality of viewers provided by each of the viewers in response to queries”; “wherein processing information indicative of television program viewing preferences of each of the plurality of viewers comprises: processing information indicative of preferences

other than television program viewing preferences of each of the plurality of viewers” and “wherein processing information indicative of preferences other than television program viewing preferences of each of the plurality of viewers comprises: processing information indicative of musical preferences of each of the plurality of viewers” and “wherein processing information indicative of preferences other than television program viewing preferences of each of the plurality of viewers comprises: processing information indicative of reading preferences of each of the plurality of viewers” (Figs. 4-6, and col. 10/line 1 to col. 11/line 18 & col. 13/lines 14-42 for preferences including music, television program, reading or recording preferences of user(s)/viewer(s); and col. 6/lines 35-67 for queries addressed).

As for claims 15-18, Hawkins discloses “wherein processing information indicative of preferences other than television program viewing preferences of each of the plurality of viewers comprises: processing information indicative of shopping preferences of each of the plurality of viewers”; “wherein processing information indicative of preferences other than television program viewing preferences of each of the plurality of viewers comprises: processing information indicative of preferences other than television program viewing preferences of each of the plurality of viewers acquired from the group of sources comprising on-line music clubs, on-line book clubs, on-line special interest clubs and organizations, and on-line retailers and merchants”; and wherein processing information indicative of preferences of each of the plurality of viewers to develop viewer characteristics information for each of the viewers comprises: processing information indicative of preferences of each of the plurality of viewers to develop a television program viewing preference profile for each of the viewers”; and “wherein processing information indicative of preferences of each of the plurality of viewers to develop a

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television program viewing preference profile for each of the viewers comprises: processing information indicative of preferences of each of the plurality of viewers in accordance with a predictive model based on the viewing habits of a representative sample of the general population to develop a television program viewing preference profile for each of the viewers” (col. 10/line 46 to col. 11/line 58 for viewer’s preferences is collected and used as viewer’s habits or profiles for upcoming programs or events and home shopping, video on demand, interactive service, and/or regular television services; and col. 16/line 37 to col. 17/line 21 for multiple on-line services can be customized and provided to viewers/users under the viewer/user’s control).

As for claims 20-31, Hawkins discloses those limitations related to “wherein processing information indicative of preferences of each of the plurality of viewers to develop a television program viewing preference profile for each of the viewers comprises: processing information indicative of preferences of each of the plurality of viewers to deduce hidden traits of each viewer”; “ processing information indicative of preferences of each of the plurality of viewers to deduce associated traits of each viewer” and “processing the television program viewing preference profile developed for each of the viewers to develop demographic information for each of the viewers” as well as “wherein processing the television program viewing preference profile developed for each of the viewers to develop demographic information for each of the viewers comprises: processing the television program viewing preference profile developed for each of the viewers in accordance with a predictive model based on the viewing habits of a representative sample of the general population to develop demographic information for each of the viewers” with the higher proportion of viewers based on demographics (col. 6/line 28 to col.

7/line 27 and above claims for preferences, viewing habits, traits, demographics and suggestions to users based on viewing habits on col. 10/line 46 to col. 11/line 18).

Regarding claims 29-51, these limitations with similarity in repetition claims are simply referred to well-known features within the art of program guide to offer interactive services to viewers based on viewer's profile and preferences; and Hawkins already discloses "wherein processing information indicative of preferences of each of the viewers in accordance with a predictive model that predicts each demographic trait of the viewer based on viewer preferences for television programs that attract a higher proportion of viewers exhibiting the demographic trait than is exhibited by the representative sample of the general population further comprises: processing information indicative of preferences of each of the viewers in accordance with a predictive model that predicts each demographic trait of the viewer based on viewer preferences for television programs that attract a higher proportion of viewers exhibiting the demographic trait than is exhibited by the representative sample of the general population and that exhibit minimal demographic trait correlation with other television programs that attract a higher proportion of viewers exhibiting other demographic traits than is exhibited by the representative sample of the general population" including "developing a television program viewing preference profile for each of the viewers in accordance with the viewer demographic information" and "processing information indicative of preferences of each of the plurality of viewers to develop a plurality of television program viewing preference profiles for each of the viewers, each profile describing the television program viewing preferences of the viewer at a different time of day, time of week, or season" and "wherein configuring a set of video programming segments comprises: configuring a set of video programming segments for the

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viewers accessing the same television equipment, at least one of the video programming segments selected from a plurality of available video programming segments, to create an apparently linear program for linear delivery to the viewers in accordance with characteristics information of the viewers” as well as “wherein configuring a set of video programming segments for each viewer comprises: configuring a set of video programming segments for each viewer, at least one of the video programming segments selected from a plurality of available video programming segments, for recording in accordance with the television program viewing preference profile of the viewer” and “wherein configuring a set of video programming segments further comprises: selecting one or more of the video programming segments from a plurality of available video programming segments to create an apparently linear program for linear delivery to the viewer, the program exhibiting content customized in accordance with the viewer characteristics information” (see Hawkins, summary, and above claims & Figs. 1-9 for user profiles, viewing habits, and viewer’s preferences and the system allows the viewer to customize multiple programs and/or video segments according to the viewer’s setting or selection due to plurality of preference attributes).

As for claims 52-69, and 71-116, these claims for a system that applies the method as claimed in claims 1-18, and 20-51 are rejected for the same reasons given in the scope of claims 1-18, and 20-51 as disclosed above.

Claim Rejections - 35 USC 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 19 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al. (U.S. Patent No. 6,005,561).

Regarding claims 19 and 70, in further view of claim 18, Hawkins does not address “wherein processing the television program viewing preference profile developed for each of the viewers in accordance with a probabilistic model based on the viewing habits of a sample of the general population comprises: constructing a Bayesian network to calculate maximum a posteriori values for the parameters of the predictive model to predict television program viewing preferences for each viewer”; however, as noted by the applicants, a Bayesian network and its algorithm for developing a probabilistic model was developed by the others (specifications, pages 17-18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hawkins’ system with a known and existing model from the others’ people in order to obtain a probabilistic model based on the viewing habits of the viewers. The motivation for doing this is simply to offer a flexible interactive program guide to viewers based on the collection of viewer’s demographics with the use of the existing Bayesian model as desired.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lazarus et al. (US Pat. No.6,134,532) disclose a system and method for optimal adaptive matching of users to most relevant entity and information in real-time.

Herz (US Pat. No.6,029,195) discloses a system for customized electronic identification of desirable objects.

Sezan et al. (US Pat. No.6,236,395 B1) disclose an audiovisual information management system.

6. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9306, (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park I.F., 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krista Kieu-Oanh Bui whose telephone number is (703) 305-0095. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:30 PM, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant, can be reached on (703) 305-4755.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Krista Bui
Art Unit 2611
August 04, 2004

A handwritten signature in black ink, appearing to read 'K. Bui', with a long horizontal flourish extending to the right.

**KRISTA BUI
PATENT EXAMINER**